REMARKS

The present amendment is submitted in conjunction with a Request for Continued Examination (RCE) and in response to the final Office Action dated August 25, 2009, which set a three-month period for response, making this amendment due by November 25, 2009.

Claims 1-2, 5, 9-11, 13-16, 18, 20-25, and 27 are pending in this application.

In the final Office Action, claims 1-2, 9-10, and 25 were rejected under 35 U.S.C. 102(b) as being anticipated by GB 217045A to Weber. Claims 5, 13-15, 18, 20-24, and 26-27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Weber in view of U.S. Patent No. 707,803 to Smith. Claims 11 and 19 were rejected under 35 U.S.C. 1039a) as being unpatentable over Weber in view of U.S. Patent No. 4,576,241 to Emonet. Claim 16 was rejected under 35 U.S.C. 103(a) as being unpatentable over Weber.

In the present amendment, claims 1, 25, and 27 have been amended to more clearly define the present invention over the cited references.

Support for the new features of claim 1 can be found on page 2, paragraph [0028] of the present application and are shown in Figs. 3 and 4. The new feature of claim 1 that the return element engages with the force-transmission elements is disclosed in the previously presented claim 19. Claim 19 has therefore been canceled.

Support for the added features of amended claim 25 can be found on page 2, paragraphs [0021] and [0028] of the present application and are shown in Figs. 3 and 4. The new feature that one of the slots is arranged at the handle and the other slot is

arranged at the main body is disclosed in previously presented claim 26. Thus, claim 26 has been canceled. Again, the new feature of claim 1 that the return element engages with the force-transmission elements is disclosed in the previously presented claim 19.

Support for the new features of amended claim 27 are disclosed on page 2, paragraph [0028] and shown in Figs. 3 and 4. Again, the new feature of claim 1 that the return element engages with the force-transmission elements is disclosed in the previously presented claim 19.

The Applicant respectfully submits that the claims as amended are not anticipated by the primary reference to Weber. Weber discloses a rotary hammer and a handle device for damping vibrations of the rotary hammer. The handle device comprises two levers 15 connected at their ends facing a handle 12 via a connecting element in a recess 12b of the handle 12 so that the two levers 15 are swingable about an axis 16. Moreover, the two levers 15 are connected to pistons 17 on an end of the levers 15 that is arranged opposite to the recess 12b. Each of the pistons 17 is mounted in a bore 11c of the housing 11 to be axially displaceable. The two levers 15 couple a housing 11 and the handle 12 of the rotary hammer (see Weber, page 2, line 75 to page 3, line 97 and Fig. 3).

In addition, return elements embodied as compression springs 14 are mounted in reception bores 12a of the handle 12 and are supported in an axial direction on the one hand on the housing 11 and on the other hand on the handle 12.

Weber fails to disclose the feature that the levers 15 are interconnected by the connecting element to perform a scissors-type motion pivotal connection in a central

region of at least one of the levers 15. Furthermore, Weber does not disclose that the return element is arranged perpendicular to the working direction and engages with each of the levers 15 on a side of each lever 15 that faces the handle 12. Therefore, amended claims 1 and 27 are not anticipated by Weber.

Furthermore, Weber does not disclose the feature that one of the bores 11c is arranged at the handle 12 and the other bore 11c is arranged at the main body. Thus, amended claim 26 also is not anticipated by Weber.

Regarding the rejection of the claims as being obvious under Section 102, the Applicant likewise submits that the amended claims are not rendered unpatentable by the cited references.

The advantages of amended claims 1, 25, and 27 are that impact impulses of a rotary hammer can be shielded advantageously via a straight-line motion, preferably in a direction if an impact impulse, independently of a direction in which an operator exerts a supporting force on an operating element. A direct transfer of the impact impulse or a component thereof via a joint or pivotable support can be prevented advantageously. Moreover, a tilting and resultant turning of a handle element of the rotary hammer can be prevented advantageously without having to relinquish any of the ruggedness of operation required during an operation of the rotary hammer (see present application, page 1, paragraph [0004]).

Furthermore, additional elements for stabilizing the handle, for example, the stabilizing surfaces 11a in Weber, of the rotary hammer can advantageously be spared with the arrangement of force-transmission elements as defined in amended claims 1,

25, and 27. Thus, a simple, cheap and stable construction of a rotary hammer, especially of a vibration-shielding unit for a rotary hammer, can be achieved.

In contrast, Weber teaches a rotary hammer and a handle device for damping vibrations of the rotary hammer. The handle device comprises two levers 15 connected together at their ends facing a handle 12 via a connecting element in a recess 12b of the handle 12. Furthermore, the rotary hammer comprises stabilizing surfaces 11a to guide the handle 12. In addition, return elements provide as compression springs 14 are mounted in reception bores 12a of the handle 12 and are supported in an axial direction on the one hand on a housing 11 of the rotary hammer and on the other hand on the handle 12.

The Applicant respectfully submits that the practitioner skilled in the art would be provided with no teaching or suggestion that would have led him to the present invention as defined in claims 1, 25, and 27. The practitioner would be provided with no suggestion or teaching which would have led him to install the lever 15 of Weber in such a way that the levers 15 are interconnected by a connecting element in a central region of at least one of the levers 15. Furthermore, one skilled in the art could not find any suggestion which would have led him to install the levers 15 in such a way that they are pivotably supported via first bolts on at least a first end of each lever 15, wherein one of the levers 15 is pivotably supported on the housing 11 via one of the first bolts and the other lever 15 is pivotably supported on the handle 12 via one of the first bolts. In Weber, the levers 15 are only pivotably supported via one bolt on the handle 12.

Furthermore, the practitioner skilled in the art is not provided with any teaching or suggestion that would have led him to connect the levers 15 to pistons 17 located in

bores 11c, wherein one of the bores 11c is arranged at the handle 12 and the other bore 11c is arranged at the housing 11. In Weber, the bores 11c are only arranged at the housing 11. In addition, one skilled in the art is provided with no suggestion or teaching which would have led him to arranged the return element provided as a compression spring 14 perpendicular to the working direction additionally to the above-mentioned arrangement of the invention as recited in claims 1, 25, and 27. In addition, Weber provides no suggestion or teaching that the return element provided as a compression spring 14 engages with each of the levers 15 on a side of the levers 15 that faces the handle 12.

Therefore, the present invention as defined in amended claims 1, 25 and 27 are not obvious over Weber.

The secondary reference to Smith discloses a clamp with a guide device for guiding a clamping motion of the clamp which is composed of two levers 5, 6 crossing over each other (Smith, Figs. 1-2).

Although Smith teaches a guide device with two crossing levers 5, 6, one skilled in the art could not be led to the subject matter of claims 1, 25, and 27 as amended, since Smith and the subject matter of these claims relate to different technical fields. The guide device taught in Smith is provided for guiding a clamping motion so that the two halves of the clamp move together simultaneously.

In contrast, claims 1, 25, and 27 of the present application concern a rotary hammer with a main body with an impact mechanism which generates axial impact impulses on a tool and with a handle which is connected to the main body via a vibration–shielding unit.

The Examiner state on page 4 of the Office Action that Smith teaches the concept of two housing parts in order to maintain a parallel relation of the device main body and the handle during pivotal motion of the force transmission elements. The Applicant respectfully disagrees, since the device of Smith concerns a clamping device and is in no way related to the relative displacement of two housing parts. Precisely for this reason, one skilled in the art would not consider the teaching of Smith as a relevant reference in the field of construction of rotary hammers, especially in view of the fact that the forces acting by the vibration shielding of a rotary hammer differ considerably from the typical forces which occur in the manipulation of a clamping device. The Smith device is an adjusting device for adjusting the distance between two clamp elements 14, 15 and is not adapted to absorb vibrations, that is, to react rapidly to a violent force acting on one of the clamp elements 14, 15. This is clear to one skilled in the art, since Smith lacks the feature of a return element which is the central element of a vibration-shielding unit.

For a precise adjustment of the distance between the two clamp element in the Smith reference, the connection between the clamps via the levers 5, 6 must be a rigid connection. In light of this, it is clear that the teachings of Smith are not adapted to the field of a vibration-shielding unit which requires a non-rigid connection between two movable parts such that a transmission of vibrations of one part to the other part can be avoided.

It therefore is not obvious that one skilled in the construction of rotary hammers wanting to improve the vibration-shielding unit taught in Weber would have considered

the Smith reference as a relevant document, since this prior art is in no way related to the construction of a vibration-shielding unit.

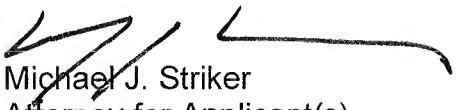
Furthermore, Smith also lacks the feature that a return element is arranged perpendicular to the working direction and engages with each of the levers 5, 6 on a side of the levers 5, 6 that faces the handle. The Applicant respectfully submits that one skilled in the art would be provided with no suggestions by combining Weber with Smith which would have led him to the present invention as defined in amended claims 1, 25 and 27.

None of the cited references to Weber, Smith or Emonet nor any combination of these references suggest the subject matter of amended claims 1, 25 and 27.

It is respectfully submitted that since the prior art does not suggest the desirability of the claimed invention, such art cannot establish a prima facie case of obviousness as clearly set forth in MPEP section 2143.01. Please note also that the modification proposed by the Examiner would change the principle of operation of the prior art, so that also for this reason the references are not sufficient to render the claims prima facie obvious (see the last paragraph of the aforementioned MPEP section 2143.01).

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. However, should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



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